

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
LIAM A. MUNDELL
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: May 9, 2000

DOCKET NO.: W-02386A-00-0139

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

SUN LEISURE ESTATES UTILITIES COMPANY, INC.
(EMERGENCY SURCHARGE)

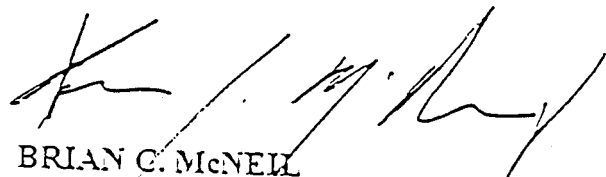
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 18, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JUNE 6, 2000 AND JUNE 7, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
SUN LEISURE ESTATES UTILITIES COMPANY,
7 INC. FOR AN EMERGENCY SURCHARGE.

DOCKET NO. W-02386A-00-0139

DECISION NO. _____

8 **OPINION AND ORDER**

9 DATE OF HEARING: March 30, 2000

10 PLACE OF HEARING: Phoenix, Arizona

11 PRESIDING OFFICER: Marc E. Stern

12 APPEARANCES: Wade Noble, Attorney at Law, on behalf of Sun Leisure
Estates Utilities Company, Inc.; and

13 Robert Metli, Staff Attorney, Legal Division, on behalf
14 of the Utilities Division of the Arizona Corporation
Commission.

15 **BY THE COMMISSION:**

16 On March 2, 2000, Sun Leisure Estates Utilities Company, Inc. ("Company" or "Applicant")
17 filed with the Arizona Corporation Commission ("Commission") an application for an emergency
18 surcharge of \$382 per customer.

19 On March 10, 2000, the Commission, by Procedural Order, scheduled a hearing on the above-
20 captioned matter to determine if an emergency existed that would require the relief requested by
21 Applicant. The Commission's Procedural Order also required Applicant to provide notice to each
22 customer by mailing and posting a copy of the notice in a public place so that the Company's
23 customers were aware of the proceeding.

24 On March 30, 2000, a full public hearing was commenced before a duly authorized Hearing
25 Officer of the Commission at its offices in Phoenix, Arizona. Both the Company and the
26 Commission's Utilities Division ("Staff") appeared with counsel. Customers of the Company
27 appeared to make public comment. After a full public hearing, the matter was taken under
28 advisement pending submission of a recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Pursuant to authority granted by the Commission in Decision No. 52398 (August 21, 1981) Applicant is an Arizona non-profit corporation which provides public water utility service to approximately 55 customers near the City of Yuma, Yuma County, Arizona.¹

2. On March 2, 2000, Applicant filed an application which requests Commission approval for an emergency surcharge of \$382 per customer to cover the costs of drilling a new well, installing a new pump and to make repairs to its present well which is in a state of deterioration.

3. Pursuant to the Commission's Procedural Order, notice of the Company's application and hearing thereon was provided to its customers.

4. Applicant's existing well is over 20 years old and was operated for a number of years without problems; however, approximately ten years ago, a slight earthquake in the area caused the well to start producing water with sand in it.

5. Yuma Pump and Drilling Company ("Yuma Pump") believes that the problem was caused by a shift of gravel pack material or a crack in the casing of Applicant's well at a level where sand is found.

6. Yuma Pump indicates that this has been an ongoing problem over the years and that it has been required to clean sand from the Company's storage tank and pressure tank on three occasions and has removed an estimated twelve yards of sand. An official with Yuma Pump believes that "this has created a void or cavity around the casing which could lead to a caving-in of the well from the top in the future."

7. Although Yuma Pump has taken remedial steps to ensure the well's continued

¹ Applicant is owned by the members of the Sun Leisure Estates Homeowners Association, Inc. ("Association"), also an Arizona non-profit corporation, that is comprised of the 56 lot owners in the Sun Leisure Estates Subdivision ("Subdivision"). The Company provides water only to the lots within the Subdivision and to one other adjacent property owner whose property is located within Applicant's certificated service area and who has been receiving water from Applicant since its inception. This property owner has no voting rights in the Association, but he is charged the same tariff rates as the members of the Association.

1 operation, it is recommending that Applicant drill another well approximately 60 feet from the
2 existing well to be used as a primary well and to use the existing well as a backup.

3 8. In November 1999 the Company began experiencing more severe problems with sand
4 in its system and with the failure of its pump.

5 9. Applicant's secretary, Mrs. Dorothy Weidner, testified that the Company's pump has
6 been replaced three times in 18 months, and as a result on December 1, 1999, a special meeting of the
7 Association was called where a Yuma Pump representative spoke to the members and explained the
8 situation.

9 10. After a discussion at that meeting where it was explained that the Company's
10 customers would be without water for at least two weeks, if Applicant's well collapsed, the members
11 voted to approve the drilling of a new well and to refurbish the existing well.

12 11. Yuma Pump estimates that it will cost \$18,250 to construct the new well and an
13 additional \$6,000 to refurbish Applicant's existing well for a total of \$24,250.

14 12. Prior to the problems with the well that required the replacement of three pumps, the
15 Company had been operating with approximately a \$400 per month surplus and had almost \$7,000 in
16 its bank account.

17 13. After paying for the replacement of the three pumps, Applicant was left with
18 approximately \$4,000 in its surplus account. The Company plans to apply \$3,240 towards the
19 payment for the new well and for the repairs to the old well leaving it with approximately \$750 for
20 emergencies.

21 14. Applicant's board planned to pay the remaining estimated balance of \$21,010 for the
22 construction with either a community block grant or a loan financed through Norwest Bank ("Bank").
23 The Bank denied their request for this loan because its analysis revealed that Applicant had
24 "insufficient earnings to support repayment of existing and proposed debt." Individuals connected
25 with the block grant suggested that Applicant utilize a one-time assessment of its customers.

26 15. Subsequently, the Company determined that, to pay the \$21,010 balance, it would
27 seek Commission approval for a \$382 per customer surcharge for the 55 customers in order to fund
28 the new well construction and to fund the repairs to the existing well.

1 16. Although Applicant prefers that customers make a one time only payment of \$382,
2 Applicant is willing to provide customers the option of taking up to one year to pay their surcharge
3 off in monthly installments, if they are experiencing financial difficulties.

4 17. Two members of the Association who participated during the proceeding raised
5 concerns about questions they had concerning the Company's ownership of the existing well. These
6 individuals also submitted a petition signed by 25 members of the Association who oppose the
7 requested surcharge.

8 18. There is evidence that a Certificate of Registration was issued to the Company by the
9 Arizona Department of Water Resources ("ADWR") in 1982. This document indicates that
10 Applicant owns the "land on which well is located."

11 19. Upon the filing of the application herein, Staff performed a thorough review of the
12 Company's request.

13 20. Staff believes that it would be prudent for Applicant to develop another source of
14 water and to keep the existing well as a standby source of water.

15 21. Staff's review of the cost analysis for Applicant's required repairs and the
16 development of the new well indicates that the estimated costs are reasonable.

17 22. Staff further indicates that, in the event a secondary source of supply is not developed
18 and the existing well collapses, it may be rendered unusable in the future and Applicant's customers
19 would be without a readily available source of water.

20 23. Staff further indicates that it would be prohibitively expensive (in excess of \$200,000)
21 to interconnect Applicant's distribution system with the nearest water utility which is approximately
22 two miles away in order to have a backup source of water.

23 24. After reviewing the Company's application, the manager of Staff's Revenue
24 Requirement Analysis Group testified that he found the Company met the requirement for emergency
25 rate relief consistent with Attorney General Opinion No. 71-17 because he believes Applicant's
26 ability to maintain service pending a formal rate determination is in serious doubt.²

27 _____
28 ² According to Attorney General Opinion No. 71-17 interim or emergency rates are proper when either
all or any of the following conditions occur: when sudden change brings hardship to a Company; when the Company is

25. Staff is recommending that the Commission approve Applicant's request for a \$382 per customer surcharge which, at the option of the customer, may be divided into six monthly installment payments of \$63.67 per month.³

26. Staff is also recommending that the Company file, within ninety days of the Commission's Decision in this proceeding, either a permanent rate application or, in the alternative, an application for rate review since the Company is not seeking a rate increase as such.

27. Under the circumstances herein, we believe that Applicant's request for an emergency surcharge should be approved due to the danger posed by the Company's well collapsing and leaving Applicant without a source of water for its customers. However, since there is no evidence of immediate danger, we further believe that the customer surcharge should be divided into 12 monthly installment payments of \$31.83 per month, said surcharge to be deposited into a separate account with quarterly filings which reflect the account's deposits and expenditures filed with the Director of the Commission's Utilities Division. These monies are to be utilized solely for the purpose of paying for the drilling of a new well and refurbishing the existing well or to make payments on a loan whose funds are utilized for the same purpose. We also believe that Applicant should file, within 30 days after the surcharge total has been collected, an application for rate review.

CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

2. The Commission has jurisdiction over the Company and of the subject matter of the application.

3. Notice of the application was provided in the manner prescribed by law.

4. Applicant is facing a “emergency” within the definition set forth in Attorney General Opinion No. 71-17.

5. The emergency surcharge requested herein of \$382 per customer is just and reasonable

insolvent; or when the condition of the Company is such that its ability to maintain service pending a formal rate determination is in serious doubt.

Staff recommended a 6 month payment period because of the danger of a well collapse and further supported the surcharge because a permanent rate increase would take too long to raise the necessary funds.

1 and should be approved.

2 6. The surcharge should be collected by means of 12 monthly installments of \$31.83 per
3 customer.

4 7. Applicant should establish a separate account for the collection of the surcharge
5 authorized herein and file quarterly statements which reflect the deposits and expenditures made
6 therefrom with the Director of the Commission's Utilities Division.

7 8. Applicant should file, within 30 days of the total surcharge being collected, an
8 application for rate review together with certification that the monies collected in the surcharge
9 account have been expended to repair the Company's existing well and to drill a new well.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the application of Sun Leisure Estates Utilities
12 Company, Inc. for a \$382 per customer surcharge be, and is hereby approved.

13 IT IS FURTHER ORDERED that the surcharge approved herein shall be interim and subject
14 to refund pending the review by Staff of an application for rate review.

15 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall collect
16 the surcharge authorized hereinabove in 12 monthly installments of \$31.83 per customer.

17 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall establish
18 a separate account for the surcharge authorized herein and file quarterly statements which reflect the
19 deposits and expenditures made therefrom with the Director of the Commission's Utilities Division.

20 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file,
21 within 30 days of the total surcharge being collected, an application for rate review and certification
22 that the monies collected have been expended to repair the Company's existing well and to drill a
23 new well.

24 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file on or
25 before June 30, 2000, a tariff authorizing it to collect the \$382 per customer emergency surcharge in
26 12 monthly installments of \$31.83.

27 IT IS FURTHER ORDERED that the surcharge authorized hereinabove shall be effective for
28 all service provided on and after July 1, 2000.

1 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall notify its
2 customers of the emergency surcharge authorized herein and the effective date of same by mailing,
3 within 5 days of the effective date of this Decision, notice to its customers of the surcharge.

4 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file,
5 within 10 days of the effective date of this Decision, a copy of the notice mailed to its customers.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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10 CHAIRMAN

COMMISSIONER

COMMISSIONER

11
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Secretary of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this ____ day of _____, 2000.

15
16 BRIAN C. McNEIL
17 EXECUTIVE SECRETARY

18 DISSENT _____
19 MES:bbs
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1 SERVICE LIST FOR:

SUN LEISURE ESTATES UTILITIES COMPANY,
INC.

2
3 DOCKET NO.

W-02386A-00-0139

4 Joseph Stanley, President
5 Sun Leisure Estates Utilities Company, Inc.
6 P.O. Box 1074
7 Yuma, Arizona 85366-1074

8 Wade Noble
9 2260 S. Fourth Avenue, Suite 2001
10 Yuma, Arizona 85364-6400
11 Attorney for Sun Leisure Estates Utilities Co., Inc.

12 Fran Hanson
13 1459 Jennifer Lane, Lot 13
14 Yuma, Arizona 85365

15 Lyn Farmer, Chief Counsel
16 Legal Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Deborah Scott, Director
21 Utilities Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, Arizona 85007